

House File 744 - Introduced

HOUSE FILE 744

BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 237)

A BILL FOR

1 An Act providing for training, prohibitions, and requirements
2 relating to first amendment rights at school districts and
3 universities governed by the state board of regents.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 261H.2, Code 2021, is amended to read as
2 follows:

3 **261H.2 ~~Policy adoption~~ Public institutions of higher**
4 **education — duties.**

5 1. The state board of regents and the board of directors of
6 each community college shall adopt a policy that includes all
7 of the following statements:

8 ~~1. a.~~ a. That the primary function of an institution of higher
9 education is the discovery, improvement, transmission, and
10 dissemination of knowledge by means of research, teaching,
11 discussion, and debate. This statement shall provide that, to
12 fulfill this function, the institution must strive to ensure
13 the fullest degree of intellectual freedom and free expression
14 allowed under the first amendment to the Constitution of the
15 United States.

16 ~~2. a.~~ b. (1) That it is not the proper role of an
17 institution of higher education to shield individuals from
18 speech protected by the first amendment to the Constitution of
19 the United States, which may include ideas and opinions the
20 individual finds unwelcome, disagreeable, or even offensive.

21 ~~b.~~ (2) That it is the proper role of an institution of
22 higher education to encourage diversity of thoughts, ideas,
23 and opinions and to encourage, within the bounds of the
24 first amendment to the Constitution of the United States, the
25 peaceful, respectful, and safe exercise of first amendment
26 rights.

27 ~~3. c.~~ c. That students and faculty have the freedom to
28 discuss any problem that presents itself, assemble, and engage
29 in spontaneous expressive activity on campus, within the
30 bounds of established principles of the first amendment to the
31 Constitution of the United States, and subject to reasonable
32 time, place, and manner restrictions that are consistent with
33 established first amendment principles.

34 ~~4. d.~~ d. That the outdoor areas of campus of an institution
35 of higher education are public forums, open on the same terms

1 to any invited speaker subject to reasonable time, place,
2 and manner restrictions that are consistent with established
3 principles of the first amendment to the Constitution of the
4 United States.

5 2. The state board of regents shall develop materials,
6 programs, and procedures to ensure that those persons who are
7 responsible for discipline, instruction, or administration
8 of the campus community, or who have oversight of student
9 government organizations, or distribute activity fee funds,
10 including but not limited to presidents, vice-presidents,
11 deans, department directors, administrators, campus police
12 officers, residence life officials, faculty, and members of
13 student government organizations, understand the policies,
14 regulations, and duties of the institution regarding free
15 expression on campus consistent with this chapter.

16 3. a. (1) The state board of regents shall direct each
17 institution of higher education under its control to comply
18 with the following requirements:

19 (a) Institution resources shall not be used for partisan
20 activities.

21 (b) Public statements regarding policy matters made in an
22 official capacity by a president, vice-president, dean, or
23 department director of the institution shall represent only the
24 position of the institution as determined in collaboration with
25 the state board of regents.

26 (c) The institution shall not permit discrimination
27 or denial of educational benefits because of the viewpoint
28 expressed by an individual representing a student organization
29 or by a student.

30 (d) The institution shall post the state board of regents'
31 policies and the university's policies and procedures relating
32 to the requirements of this subsection on the institution's
33 internet site, including the procedures by which a member of
34 the campus community may file a complaint for a violation of
35 this chapter with the state board of regents.

1 (2) A person shall not retaliate against a person who files
2 a complaint for a violation of this subsection pursuant to
3 section 261H.5. If the person who files a complaint for a
4 violation of this subsection is an employee of the institution,
5 the provisions of section 70A.28 shall apply.

6 b. If the institution or a court finds that a faculty
7 member discriminated against a student in violation of this
8 subsection, the faculty member's employment at the institution
9 may be terminated.

10 Sec. 2. NEW SECTION. 261H.6 Training — first amendment to
11 the Constitution of the United States.

12 Each institution of higher education governed by the state
13 board of regents shall provide training on free speech under
14 the first amendment to the Constitution of the United States
15 to all students, faculty, and staff on an annual basis, which
16 elected officials and staff shall be permitted to attend.

17 Sec. 3. NEW SECTION. 279.73 Intellectual freedom —
18 protection — complaints.

19 1. The board of directors of each school district shall
20 protect the intellectual freedom of the school district's
21 students and practitioners and shall establish and publicize
22 policies that protect students and faculty from discrimination
23 based on speech. A person shall not retaliate against a person
24 who files a complaint for a violation of this section. If the
25 person who files a complaint for a violation of this section is
26 an employee of the school district, the provisions of section
27 70A.29 shall apply.

28 2. If the board of directors of the school district or
29 a court finds that an employee of the school district who
30 holds a license, certificate, statement of recognition, or
31 authorization issued by the board of educational examiners
32 under chapter 272 discriminated against a student or employee
33 in violation of this section, the employee found to be in
34 violation under this section may be subject to disciplinary
35 action by the board of educational examiners pursuant to

1 section 272.2, subsection 14, and the employee's employment may
2 be terminated.

3 EXPLANATION

4 The inclusion of this explanation does not constitute agreement with
5 the explanation's substance by the members of the general assembly.

6 This bill provides for first amendment rights training,
7 prohibitions, and requirements at or by school districts and
8 regents universities.

9 The state board of regents must develop materials, programs,
10 and procedures to ensure that those persons who are responsible
11 for discipline, instruction, or administration of the campus
12 community, and who have oversight of student government
13 organizations, or distribute activity fee funds, understand the
14 policies, regulations, and duties of the institution regarding
15 free expression on campus.

16 The state board of regents must direct the state
17 universities to comply with a number of requirements, including
18 that institution resources will not be used for partisan
19 activities; public statements regarding policy matters made
20 by certain university officials shall represent only the
21 position of the institution as determined in collaboration
22 with the state board of regents; the university shall not
23 permit discrimination or denial of educational benefits because
24 of the viewpoint expressed by an individual representing a
25 student organization or by a student; and that the university
26 shall post the state board's and the university's policies and
27 procedures relating to these requirements on the institution's
28 internet site, including the procedures by which a member of
29 the campus community may file a complaint for a violation
30 under the bill with the state board of regents. If the
31 person who files a complaint for a violation of the bill is an
32 employee of the institution, the statutory provisions of Code
33 section 70A.28, prohibiting certain actions by state employees
34 and prohibiting reprisals, apply to employees of the state
35 universities.

1 If the institution or a court finds that a faculty member
2 discriminated against a student in violation of the bill,
3 the faculty member's employment at the institution may
4 be terminated. The bill establishes similar requirements
5 for school districts. If a school employee is licensed
6 by the board of educational examiners and is found to have
7 discriminated against a student or employee, the school
8 employee may be subject to disciplinary action by the board.

9 Each regents university must provide training on free speech
10 under the first amendment to the Constitution of the United
11 States to students, faculty, and staff on an annual basis and
12 shall allow elected officials and staff to attend.